

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KATHLEEN WALLEN,)
)
Plaintiff,)
)
vs.) CIVIL NO. 05-735-GPM
)
THE CITY OF BELLEVILLE and)
LIEUTENANT DAVID ELLIS,)
)
Defendants.)

MEMORANDUM AND ORDER

MURPHY, Chief District Judge:

Defendants filed a motion to dismiss and strike on December 12, 2005 (*see* Docs 6, 7). Pursuant to Local Rule, Plaintiff's response was due on or about January 12, 2006. The motion was scheduled for a hearing on Monday, February 27, 2006, in accordance with this Court's normal motion practice.

As of today's date, Plaintiff has not filed a response. Pursuant to Southern District of Illinois Local Rule 7.1(c), "[f]ailure to timely file an answering brief to a motion may, in the Court's discretion, be considered an admission of the merits of the motion." The Court exercises its discretion, and the motion to strike or dismiss (Doc. 6) is **GRANTED**. Count 1 is **DISMISSED on the merits** as to Defendant Ellis only; Count 2 is **DISMISSED on the merits** in its entirety. The only remaining claim is Count 1 against the City of Belleville.

The hearing on **Monday, February 27, 2006**, is **CANCELED**.

IT IS SO ORDERED.

DATED: 2/22/06

s/ G. Patrick Murphy _____
G. PATRICK MURPHY
Chief United States District Judge